

plan sponsor of a plan terminated by mass withdrawal.)

(2) *Scope.* Subpart B applies to multi-employer plans covered by title IV of ERISA, with respect to which there is a termination by the withdrawal of every employer (including a plan created by a partition pursuant to section 4233 of ERISA) or a withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw from the plan, and to employers that withdraw from such multiemployer plans. The obligations of a plan sponsor of a mass-withdrawal-terminated plan under subpart B shall cease to apply when the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. Subpart B also applies, to the extent appropriate, to multiemployer plans with respect to which there is a withdrawal of substantially all employers in a single plan year and to employers that withdraw from such plans in that plan year.

(c) *Subpart C.* Subpart C establishes the interest rate to be charged on overdue, defaulted and overpaid withdrawal liability under section 4219(c)(6) of ERISA, and authorizes multiemployer plans to adopt alternative rules concerning assessment of interest and related matters. Subpart C applies to multiemployer plans covered under title IV of ERISA, and to employers that have withdrawn from such plans after April 28, 1980 (May 2, 1979, for certain employers in the seagoing industry).

§ 4219.2 Definitions.

(a) The following terms are defined in § 4001.2 of this chapter: employer, ERISA, IRS, mass withdrawal, multi-employer plan, nonforfeitable benefit, PBGC, plan, and plan year.

(b) For purposes of this part:

Initial withdrawal liability means the amount of withdrawal liability determined in accordance with sections 4201 through 4225 of title IV without regard to the occurrence of a mass withdrawal.

Mass withdrawal liability means the sum of an employer's liability for *de minimis* amounts, liability for 20-year-limitation amounts, and reallocation liability.

Mass withdrawal valuation date means—

(1) In the case of a termination by mass withdrawal, the last day of the plan year in which the plan terminates; or

(2) in the case of a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, the last day of the plan year as of which substantially all employers have withdrawn.

Reallocation liability means the amount of unfunded vested benefits allocated to an employer in the event of a mass withdrawal.

Reallocation record date means a date selected by the plan sponsor, which shall be not earlier than the date of the plan's actuarial report for the year of the mass withdrawal and not later than one year after the mass withdrawal valuation date.

Redetermination liability means the sum of an employer's liability for *de minimis* amounts and the employer's liability for 20-year-limitation amounts.

Unfunded vested benefits means the amount by which the present value of a plan's vested benefits exceeds the value of plan assets (including claims of the plan for unpaid initial withdrawal liability and redetermination liability), determined in accordance with section 4281 of ERISA and part 4281, subpart B.

(c) For purposes of subpart B—

Withdrawal means a complete withdrawal as defined in section 4203 of ERISA.

Subpart B—Redetermination of Withdrawal Liability Upon Mass Withdrawal

§ 4219.11 Withdrawal liability upon mass withdrawal.

(a) *Initial withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall determine initial withdrawal liability pursuant to section 4201 of ERISA of every employer that has completely or partially withdrawn from the plan and for whom the liability has not previously been determined and, in accordance with section 4202 of ERISA, notify each employer of the amount of the initial withdrawal liability and collect the amount of the

initial withdrawal liability from each employer.

(b) *Mass withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall also—

(1) Notify withdrawing employers, in accordance with § 4219.16(a), that a mass withdrawal has occurred;

(2) Within 150 days after the mass withdrawal valuation date, determine the liability of withdrawn employers for *de minimis* amounts and for 20-year-limitation amounts in accordance with §§ 4219.13 and 4219.14;

(3) Within one year after the reallocation record date, determine the reallocation liability of withdrawn employers in accordance with § 4219.15;

(4) Notify each withdrawing employer of the amount of mass withdrawal liability determined pursuant to this subpart and the schedule for payment of such liability, and demand payment of and collect that liability, in accordance with § 4219.16; and

(5) Notify the PBGC of the occurrence of a mass withdrawal and certify, in accordance with § 4219.17, that determinations of mass withdrawal liability have been completed.

(c) *Extensions of time.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal may apply to the PBGC for an extension of the deadlines contained in paragraph (b) of this section. The PBGC shall approve such a request only if it finds that failure to grant the extension will create an unreasonable risk of loss to plan participants or the PBGC.

§ 4219.12 Employers liable upon mass withdrawal.

(a) *Liability for de minimis amounts.* An employer shall be liable for *de minimis* amounts to the extent provided in section 4219(c)(1)(D) of ERISA if the employer's initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of ERISA.

(b) *Liability for 20-year-limitation amounts.* An employer shall be liable for 20-year-limitation amounts to the extent provided in section 4219(c)(1)(D) of ERISA.

(c) *Liability for reallocation liability.* An employer shall be liable for reallocation liability if the employer

withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw, or if the employer withdrew after the beginning of the second full plan year preceding the termination date from a plan that terminated by the withdrawal of every employer, and, as of the reallocation record date—

(1) The employer has not been completely liquidated or dissolved;

(2) The employer is not the subject of a case or proceeding under title 11, United States Code, or any case or proceeding under similar provisions of state insolvency laws, except that a plan sponsor may determine that such an employer is liable for reallocation liability if the plan sponsor determines that the employer is reasonably expected to be able to pay its initial withdrawal liability and its redetermination liability in full and on time to the plan; and

(3) The plan sponsor has not determined that the employer's initial withdrawal liability or its redetermination liability is limited by section 4225 of ERISA.

(d) *General exclusion.* In the event that a plan experiences successive mass withdrawals, an employer that has been determined to be liable under this subpart for any component of mass withdrawal liability shall not be liable as a result of the same withdrawal for that component of mass withdrawal liability with respect to a subsequent mass withdrawal.

(e) *Free-look rule.* An employer that is not liable for initial withdrawal liability pursuant to a plan amendment adopting section 4210(a) of ERISA shall not be liable for *de minimis* amounts or for 20-year-limitation amounts, but shall be liable for reallocation liability in accordance with paragraph (c) of this section.

(f) *Payment of initial withdrawal liability.* An employer's payment of its total initial withdrawal liability, whether by prepayment or otherwise, for a withdrawal which is later determined to be part of a mass withdrawal shall not exclude the employer from or otherwise limit the employer's mass withdrawal liability under this subpart.